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24

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,433	02/17/2004	Kenji Kuwabara	44342.018001	3450

32361 7590 03/18/2005

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NEW YORK, NY 10166

EXAMINER
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POWERS, FIONA

ART UNIT	PAPER NUMBER
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1626

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

412

## Office Action Summary

Application No.

10/781,433

Applicant(s)

KUWABARA ET AL.

Examiner

Fiona T. Powers

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 to 9 is/are rejected.
- 7) ☒ Claim(s) 2 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 10/276,670.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/29/04, 8/5/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

Art Unit: 1626

Receipt is acknowledged of the information disclosure statements filed April 29, 2004 and August 5, 2004, which have been entered in the file.

Claim 9 is objected to because of the following informalities: Claim 9 contains a spelling error "pahramaceutical" should be -pharmaceutical-. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent 60-208,971, cited.

The reference discloses the claimed compounds of the formula (1) wherein Het is an oxazole which is unsubstituted or substituted by alkyl, R<sup>1</sup> is phenyl which is optionally substituted by halogen, D is methylene and E is a group of the formula (4) wherein Y is sulfur, R<sup>3</sup> is hydrogen or alkyl, R<sup>4</sup> is hydrogen and Z is carboxy or carbamoyl. Note Examples 3, 7, 9, 11, 20 and 24.

Art Unit: 1626

Claims 1 and 3 to 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Machin et al. (US 4774253), cited.

The reference discloses the claimed pharmaceutical compositions and compounds of the formula (1) wherein Het is an oxazole which is unsubstituted or substituted by alkyl, R<sup>1</sup> is phenyl which is optionally substituted by halogen, D is alkylene and E is a group of the formula (4) wherein Y is oxygen, R<sup>3</sup> and R<sup>4</sup> are alkyl and Z is carboxy, alkoxy carbonyl or carbamoyl. Note column 3, lines 20 to 50 and 53 to 66 and Examples 1-10, 22, 23, 25-33, A and B.

Claims 2 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The references made of record and not relied upon show the state of the art.

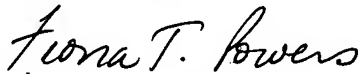
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fiona T. Powers whose telephone number is 571-272-0702. The examiner can normally be reached on Monday - Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the

Art Unit: 1626

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Fiona T. Powers  
Primary Examiner  
Art Unit 1626

ftp  
March 14, 2005